



CPT/Inf (94) 3

**Follow-up report of the Finnish Government in response to the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on its visit to Finland from 10 to 20 May 1992**

The Finnish authorities have decided to publish this follow-up report. The CPT's report on its visit to Finland (CPT/Inf (92) 4) and the interim response of the Finnish Government (CPT/Inf (93) 16) were made public in, respectively, April 1993 and August 1993. The appendices referred to in the follow-up report may be obtained upon request.

FOLLOW-UP REPORT TO THE FINNISH GOVERNMENT'S INTERIM REPORT IN  
RESPONSE TO THE REPORT OF THE EUROPEAN COMMITTEE FOR THE  
PREVENTION OF TORTURE AND INHUMAN OR DEGRADING TREATMENT OR  
PUNISHMENT (CPT) FOLLOWING ITS VISIT TO FINLAND IN MAY 1992

Ministry of Justice

Helsinki, 18 February 1994



## **PREFACE**

This is the follow-up report of the Government of Finland to the Interim Report in response to the report prepared by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), following its visit to Finland in May 1992.

The follow-up report covers areas and preliminary observations brought up in the letter of 6 December 1993 by the President of the committee. In addition, some of the information and topics in the Interim Report have been supplemented by further information.

The comments of this report follow the paragraphs of the original CPT-report, with references to the pages in the Finnish Interim Report. The text of the committee's letter of 6 December 1993 is appended to this report. Other appendices and additional material referred to in the report are assembled separately.



## Police establishments

### Torture and other forms of ill-treatment

Response to paragraph 13 (pages 7 and 8 and Appendix 2 of the response)

In the response of the Finnish authorities to the Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment there appears to have been some slight confusion as regards the interpretation of statistics appended to it (Appendix 2). The purpose of the Finnish authorities was to inform the CPT that all crime reports (85/92 cases) made in 1991 and 1992 were referred to the public prosecutor for consideration of charges. In 39 cases in 1991, and in 42 cases in 1992, either the public prosecutor decided not to bring charges or the charges were dismissed by the court. The response erroneously states that the cases (39/42) were referred to the public prosecutor for charges.

No statistics are compiled of offences reported by the police on the basis of false or unsubstantiated denunciations; therefore accurate statistical data are not easily available on the number of such reports. In order to compile such statistics some 400 000 offences under the Penal Code would have to be examined for each year, covering the 242 police districts in Finland.

Empirical data suggest that such reports are extremely rare and, even where most frequent, have remained isolated instances. As was stated in the response, presenting a complaint is regarded as a basic human right of citizens and very rarely that charges are brought by the authorities even when a complaint is manifestly unsubstantiated.

**Remand detention in police establishments**

Response to paragraphs 11, 25 and 53 (pages 2 to 16, 11 and 27, and Appendix 1 of the response)

As was explained in the response, holding remand prisoners on police premises is, in principle, always an exceptional measure. However, it needs to be used relatively often especially in larger cities such as Helsinki. In such cases, well-founded legal and objective reasons always exist to do so. These reasons were elaborated in the response.

In Finland, police do not exert pressure of any kind on remand prisoners in order to extract information or confession. To do so would constitute a crime in office. It is out of the question to use the possibility of transferring a remand prisoner from police premises to a prison as a means to pressure for information. A decision on transfer is made when the reasons for holding a remand prisoner on police premises have ceased to be relevant. Usually the police are the first to know the situation, and it is therefore only natural that they decide on the transfer.

When police premises are approved for holding remand prisoners, attention is focused on the possibility of guaranteeing remand prisoners their basic rights while in custody. The possibility of providing remand prisoners with a meaningful regime is, however, not part of the criteria for such approval, because not even all remand prisoners held in provincial prisons can be offered full-time activities outside their cells.

The Ministry of Justice and the Ministry of the Interior will, in early 1994, discuss ways of improving the system in such a way as to accommodate the Committee's recommendations. The need of reviewing approval granted for holding remand prisoners will be addressed. The Ministries also plan to establish an extensive monitoring system to permit the Ministry of Justice to monitor the periods of time remand prisoners are held on police premises.

At present, the two Ministries find it inconceivable that the current system could be abolished, given the relatively few provincial prisons, scattered around the country; the structure of prisons; and the risk of collusion in cases involving extensive leagues. Neither would it be realistic from the point of view of resources to transfer the management of police prisons to the Prison Administration.

#### **Conditions of detention in police establishments**

##### Response to paragraph 17

In late 1993, the Police Department of the Ministry of the Interior launched an experiment of providing inebriates in the Töölö Centre of the Helsinki Police Department with mattresses, after a type of mattress was found which fulfilled the criteria for hygiene and safety.

The experiment is monitored through the use of questionnaires to be filled in by the police and medical personnel, cleaning staff and all clients to give their opinions of the mattresses.

If the outcome of the experiment, which is due to be completed in spring 1994, is positive, premises used for



the custody of inebriates will be furnished with mattresses in a national project financed through funds allocated for this purpose.

Response to paragraph 20 (pages 9 to 11 and Appendices 1 and 4 of the response)

Information is appended on rearrangements made in the Töölö Centre towards reducing occupancy levels in the cells, as required by written order of the officer in charge of the Centre.

**Safeguards against the ill-treatment of persons detained by the police**

Response to paragraphs 28 and 30 (pages 13 to 17 of the response)

The text of the instructions by the Ministry of the Interior to the effect that the provisions on the notification of the custody of persons under arrest also apply, where appropriate, to those who have been apprehended is contained in Article 1 of the Instructions for the Treatment of Detainees produced as Annex 1 of the response.

A bill for the amendment of the part in question of chapter 1 section 7 of the Coercive Criminal Investigation Means Act will be submitted to Parliament as part of a larger reform in spring 1994.

The Ministry believes that to afford the prosecutor the right to decide on the postponement of notification to the family would not be an appropriate solution in the Finnish pre-trial investigation procedure. This decision must primarily rest with the police officer in charge of the

investigation, who is thoroughly familiar with the case. As a secondary alternative, the decision must be the duty of a senior police officer with the right to arrest. The instructions currently in force require that this procedure be followed, and it is followed.

#### **Access to a lawyer**

Response to paragraphs 32 and 33 (pages 17 and 18, 23 and 24 and Appendix 5 of the response)

As stated in the response, a remand prisoner or an arrested person has, under section 12 of the Remand Imprisonment Act, the right to discussions with his counsel in private, unless there are justified reasons to suspect that this right might be abused. The Ministry of Justice and the Ministry of the Interior will issue an order to clarify the interpretation of this provision, to the effect that in cases where unsupervised visits cannot be permitted for fear of abuse a remand prisoner or an arrested person must be given an opportunity to select a lawyer from among members of the Finnish Bar Association with whom he can confer in private.

The Ministry of the Interior has looked at the cases in the Province of Turku and Pori where lawyers were prevented from being present during interrogation. According to the explanation given by the provincial authorities, these cases concern three lawyers who through their activities attempted to influence the pre-trial investigation and prevent the clarification of the truth in the matter. The figure for 1992, for example, relates to a murder case in Pori where three suspects had been arrested for pre-trial investigation and who were assisted by three lawyers. The lawyers tried to exchange information obtained by interrogation and pass it on to

their clients under arrest; this led to prohibition to be present during the interrogation. The suspects were interrogated on several occasions, and because there were three lawyers, the statistics indicate an exceptionally high figure. In principle this all took place within the framework of the same single case. The lawyers made a complaint against the police, but the final decision taken by the provincial prosecutor was that the complaint gave no reason for action.

#### **Medical examination of detained persons**

##### Response to paragraph 35 (page 24 of the response)

Introduction of a legal provision, as proposed by the CPT, might easily lead to unreasonable demands and disadvantages. An attempt may, for example, be made to delay an investigation by requesting examination by a doctor who is difficult to reach. Given that an arrested person has in practice great freedom in choosing a doctor to examine him at his own cost, and that the entire public health care system is available to him at the state's expense, this kind of change in law would seem inappropriate by Finnish standards.

##### Response to paragraph 36 (page 19 of the response)

The obligation of the police, as a main rule, to monitor a medical examination is expressly based on safety considerations. These are discussed in the Government's response. Only the police know whether the detainee has a potentially violent character or a criminal background, and what kind of motivation he might have to try to escape or take a hostage. These considerations must not be underestimated in any circumstances. This is to a large

extent also a matter of guaranteeing the legal protection of the police officer in charge of guarding the detainee.

If it is known that the detainee in question is not violent or that there is no risk of escape, the police do not monitor the medical examination, unless specifically requested by the doctor.

Consequently the Ministry of the Interior believes that there is no reason to change the current practise.

The fact that the results of the detainee's medical examination are available to him is so obvious that this was not mentioned in the response.

Response to paragraph 39 (pages 22 and 23 of the response)

Details of education provided to police personnel and the job description of the nurses employed at the Töölö Centre are appended for information.

Response to paragraph 40 (pages 22 and 23 of the response)

The situation with respect to AIDS and HIV+ is relatively good in Finland. The number of persons who have contracted the disease is no more than approximately 550, but the problem is nevertheless well-known. In principle, every detainee is treated to minimize the risk of further infection. This general approach of caution is in no way undermined by the labelling of the door of a person known to have the disease. It is no more than an appropriate additional precaution to guarantee safety at work.

Furthermore, the label serves to warn officers not to put another inmate in that cell and so to prevent the latter from being subjected to a risk of transmission. In the Ministry's view, it does not in any way stigmatize the

detainee in question. As was stated in the response, outsiders cannot see the detainee, and it is necessary for the staff for reasons of safety at work to be aware of the situation. The nursing staff also believe that it is an appropriate practice.

#### **Information of rights**

Response to paragraph 43 (pages 20 and 21 of the response)

The form has been replaced with a new one in the way explained in the response. However, any copies left of the earlier form will be used before taking the new one into use. As amended, the form does not specify every individual right of which the detainee should be informed, but provides a box to be checked indicating that the detainee has been informed of those rights. In addition, a notice of the rights of detainees will be available. A detainee is naturally informed of his rights in a language which he can reasonably be expected to understand. For detainees who speak less commonly known languages, the police will acquire an interpreter at no cost to the detainee.

#### **Conduct of police interviews**

Response to paragraph 45 (page 21 of the response)

Copies of the Pre-Trial Investigation Act and the Pre-Trial Investigation and Coercive Means Decree, which contain detailed regulations on the conduct of interrogations are appended. Formerly part of instructions issued to the police by the Ministry of the Interior, these regulations have been incorporated into the legislation because of their importance.

When being trained in interrogation techniques at the police training institutes each student is given a hand-

out which in a way also serves as a code of conduct for interrogations in practical police work. The police are, under the Pre-Trial Investigation Act, required to inform the person to be interrogated of his position as regards the pre-trial investigation as well as of his rights and obligations. For this purpose, a new form PIN, has been introduced which can be handed to the person to be interrogated. Therefore the police supreme command does not believe that it is necessary to introduce a specific code of conduct.

An English translation of the notice of detainees' rights is appended. The notice will be translated into several languages, including Swedish, Russian, Estonian, German, French, Italian and Spanish.

Response to paragraph 47 (pages 25 and 26 of the response)

Under the Pre-Trial Investigation Act, a detained person has the right to invite a credible and competent witness to be present at police interviews. In cases where the detainee does not exercise this right, the normal procedure is to invite a police officer as a witness. Police officers are also used as witnesses in those rare cases where investigation would be delayed to the point of being endangered if the requested witness were asked to be present.

The Ministry of the Interior believes that this practice, which is well-established in Finland, does not in any way undermine the legal protection of the person interrogated. If anything, it is likely to improve it, because it is important to conclude the interrogation as quickly as possible in order to release the person, as is often the case. As this established practice has not resulted in any disadvantages, the Ministry does not believe that it would

be appropriate in the Finnish circumstances to introduce a specific system of using citizens as witnesses.

Response to paragraph 48 (pages 21 and 22 of the response)

As stated in the response, the tape-recording of police interrogations is possible and sometimes practised, but it has not become widely established in routine interrogations. Whether or not to tape-record an interview is at the discretion of the interrogator. No problems or disadvantages have surfaced as a result of the current practice. In no single case has it, for example, been necessary to use a tape-recording as evidence in investigations of police brutality during interrogations. The Ministry therefore considers that the current practice with respect to tape-recording can be continued.

There are no comprehensive statistics compiled of the places of interrogations. Interrogations in simplified pre-trial investigations under section 44 of the Pre-Trial Investigation Act are, as a rule, carried out in police vehicles. These cases constitute approximately half of the crimes committed, and the majority are traffic offences.

As regards crimes under the Penal Code, the number of interrogations conducted outside police stations is not, as such, very large compared to the total number of interrogations; nevertheless, it is quite significant. The police always try to apply the principle of least inconvenience. Accordingly, in cases where it might inconvenience the person to be interrogated to come to the police station, interrogations may be conducted, provided this is possible to do with discretion, in any place suitable for that purpose such as workplaces, hospitals, nursing homes, prisons, labour colonies, and private homes.

Response to paragraph 51 (pages 26 and 27 of the response)

Following the submission of the report by the working group charged with examining the need for an independent and impartial body to investigate crimes allegedly committed by the police, no progress has been made in the matter. The Ministry of the Interior is in no way opposed to the idea itself, but has not seen any practical need for such an independent body. The working group report compared various possibilities to guarantee impartial pre-trial investigation. The working group's brief covered not only ill-treatment but also other types of offences committed by members of the police force in the performance of official duties. The report was submitted to the Minister of the Interior in 1990.

Since 1990, the legislation on civil servants has been amended. The current Civil Service Act contains comprehensive provisions on a disciplinary procedure and liability for damages, dismissal from office and suspension from office and bodies of officials to deal with disciplinary matters. Moreover, a party alleging that a civil servant has committed a crime may bring charges against him before a public court.

One of the duties of the Parliamentary Ombudsman is to monitor the legality of police actions. The office of the Parliamentary Ombudsman has staff who have experience and competence in pre-trial investigation. The Ombudsman may both investigate complaints made to him and carry out investigations on his own initiative; he may also conduct investigations without relying on pre-trial investigation by the police.

In 1995 legislation introducing reforms in local administration will enter into force whereby the functions



of a public prosecutor will be separated from those of a local police chief also in rural areas. This measure is designed to increase public confidence in independent and objective pre-trial investigation and prosecution.

Given the above considerations, it is believed that the creation of a separate investigatory body is not at this stage appropriate in the Finnish circumstances.

**Prisons****Torture and other forms of ill-treatment****Paragraph 59 (pages 30 and 31 of the response)**

As was stated in the response, no statistics are compiled according to content of letters received by the Prison Administration Department. An exception are, inter alia, claims for compensation made by prisoners for their property allegedly damaged or lost while kept in store in the prison. Letters containing such claims are recorded in a register of matters relating to prisoners. In order to follow the CPT's recommendation, this procedure can be extended to cases where letters from prisoners contain allegations of ill-treatment or assault and battery.

Practical problems will arise here in the sense that quite often prisoners raise a number of issues in one letter, so that an allegation of ill-treatment may form only a part, and not the main focus, of the content. In such cases the registering of the letter on the basis of an allegation that may have been made as a passing comment will not necessarily give a right picture of the content of the complaint.

The Prison Administration Department will in any case modify its practice of recording letters from prisoners in such a way as to register letters containing allegations of ill-treatment or assault and battery; this will enable the Department to monitor the number and content of complaints.

Paragraphs 65 to 66 (pages 28 to 30 and 31 to 33 of the response)

On 1 September 1993 the Prison Administration Department began a four-month period of monitoring inter-prisoner violence and injuries based on information from health care personnel in prisons.

Forms completed anonymously by health care personnel were collected by the Head of Prison Medical Services. Prisons will be informed of the results of this experiment and consideration is given to monitoring the problem continuously or at regular intervals.

A bill for amendment of the legislation on the enforcement of sentences will be submitted to Parliament in early 1994. It will include the proposals on drug prevention made by the Ministry of Justice Working Group. In addition, a project was launched by the Prison Administration Department at the beginning of 1994 to develop measures aimed at reducing the use of intoxicants by prisoners.

#### **Solitary confinement**

Paragraphs 71 and 128 (pages 34 and 75 of the response)

In Helsinki Central Prison, the renovation of day cells west was completed recently. The ground floor now has facilities for free-time activities and limited space for sports, which may be used in appropriate groups also by prisoners placed in isolation at their own request. This section of the prison has also employed staff who can provide instruction in such activities.

The isolation unit is located in the day cells east where renovation will begin in 1994. The CPT's recommendations will be taken into account in the renovation of the cells of the isolation unit. Some day cells north are being repaired to house a temporary isolation unit. The cells used for solitary confinement as a disciplinary measure have been furnished as recommended by the CPT.

Paragraph 74 (page 35 of the response)

Instructions, regarding solitary confinement, on the application of chapter 3 section 9 of the Enforcement of Sentences Decree are being revised to accommodate the CPT's recommendation for informing prisoners in writing of the reasons for solitary confinement. It is intended that the revised instructions become applicable as of 1 April 1994.

Paragraph 76 (pages 36 to 38 of the response)

The training of prison officers emphasizes that prison officers are important in working in close contact with prisoners and have primary responsibility for observing their physical and mental health. The basic examination for prison officers contains 24 lessons of health care, including identification of the most common illnesses, and 10 lessons of psychiatry. At senior level, the studies contain another 31 lessons of health care and ten lessons of psychiatry. The importance of making observations and reporting them at handover and, when necessary, to health care personnel is underlined in training prison personnel in suicide prevention in 1993 and 1994.

The instructions issued by the Prison Administration Department on the monitoring of prisoners' health will be revised in 1994. As amended, they will specify that the

doctor is actively responsible for the medical supervision of prisoners placed in solitary confinement or in isolation and for the recording of observations. The CPT's comments will be discussed at a meeting of prison health care personnel in February 1994. A copy of The 3rd General Report on the CPT's Activities covering the Period 1 January to 31 December 1992 has been sent to every health care unit in the prison administration.

A copy of the Act on the Status and Rights of Patients and a copy of the current instructions on medical supervision of prisoners are appended.

Paragraph 78 (pages 38 to 39 and 41 to 42 of the response)

As was explained in the response, preventive detention does not mean that the prisoner is isolated from other prisoners or held in solitary confinement. In cases where prisoners are placed in solitary confinement, it is because of conduct endangering prison safety.

Since 1971, only two prisoners in preventive detention have been, at times, isolated from other prisoners for these reasons.

One of them has been held in preventive detention since 30 March 1983. He has been isolated under chapter 3 section 9 of the Enforcement of Sentences Decree as follows:

Turku Central Prison 5 July 1987 to 22 August 1988

Helsinki Central Prison 7 December 1990 to 22 January 1991  
(was allowed to return to his cell on 21 December 1990 but would not do so)

Turku Central Prison 23 January 1991 to 7 June 1991

Riihimäki Central Prison 11 June 1991 to 29 November 1991

Helsinki Central Prison 4 December 1991 to 4 May 1992  
(both placed in the isolation unit and held in his cell)

The decision on isolation was extended for a month at a time, as provided by law. Medical examinations were carried out by a doctor in accordance with law.

The other prisoner was held in preventive detention between 14 November 1978 until he was conditionally released on 18 September 1989. He was isolated from other prisoners under chapter 3 section 9 of the Enforcement of Sentences Decree from 7 May 1987 to 9 February 1988.

The decision on isolation was reviewed every month, and a medical examinations were carried out by a doctor.

After his release, the prisoner committed serious crimes, and on 19 October 1993 the court ordered him to be held in preventive detention. There is no need at the moment to isolate him from other prisoners.

#### Conditions of detention in general

##### Paragraph 89 (page 44 of the response)

In discussions held with every prison on target results for 1994 the issue of allowing prisoners access to toilet facilities at night was raised. It came out that in a number of prisons it is possible to give prisoners access to a toilet at night. For security reasons a cell door must not be unlocked and opened by one guard alone. Prisons which do not have enough staff to allow the presence of two guards in that situation will not be able to give prisoners access to a toilet at night.

##### Paragraph 83 (pages 45 to 47 of the response)

Since the CPT's visit, the Prison Administration Department has carried out three inspections of the premises of Helsinki Central Prison, issuing instructions to improve the standard of cleanliness in the prison. The prison was aware that the third inspection would be carried out unannounced, and in that inspection in December 1993 it was observed that the conditions for cleanliness had improved markedly.

#### **Medical issues**

##### Paragraph 101 (page 54 of the response)

One of the goals for all prisons in 1994 is to ensure that the personnel able to give first aid maintain their skills in refresher courses at three-year intervals. A record is maintained of the first aid preparedness of each staff member to guarantee the presence on every shift of an officer able to provide first aid. The achievement of this goal by each prison will be monitored.

##### Paragraph 110 (pages 55 to 57 of the response)

The training programme for suicide prevention mentioned in the response has been started. The first seminar, held in November, attracted so much interest that a similar one will be arranged in March 1994. Attendance by prison officers was high. A study on the causes of death of prisoners in 1969 to 1992 was completed recently. The findings will be discussed in the training to be provided to prison directors and health care personnel.

In 1993, 10 deaths of prisoners were recorded (the figure for 1992 was 20). Six were suicides (10 in 1992).

##### Paragraph 118 (page 58 of the response)

Turku Prison Mental Hospital has managed to provide some new opportunities for prisoners to participate in evening activities by reducing the number of staff working at night. Guided activities consist of physical exercise and music therapy; a nurse trained in music therapy is responsible for the latter.

The goal for the development of the Prison Mental Hospital in 1994 is to ensure high-quality psychiatric care determined by the medical needs of patients, providing a maximum level of service consistent with maximum cost-efficiency and the resources available. In addition to the quality of the care provided, special attention should be attached to respecting the dignity, beliefs and privacy of each prisoner in compliance with the Act on the Status and Rights of Patients.

The goals set for the Prison Mental Hospital include continued special attention to the appropriate use of the professional skills of the personnel and hours worked by them with a view to promoting prisoners' health and ensuring patients an adequate access to a regime which is appropriate from the point of view of treatment. An attempt should be made, through rescheduling of shifts, to reduce the time spent by prisoners locked in their cells, by approximately one hour a day (to 13 hours).

Paragraph 122 (pages 59 and 60 of the response)

An inspection of the Prison Mental Hospital in August 1993 by the Head of Prison Medical Services also covered the records maintained by the Hospital of decisions on placement in isolation. The chief medical officer of the Hospital was advised to ensure in the future that the doctor who orders a patient to be placed in isolation



confirms the decision together with the reasons for the measure with his signature each day.

One of the results to be aimed at by the Hospital in 1994 is to monitor the number of isolation cases, length of the isolation period, and reasons for the isolation, with a view to reducing the time spent in isolation.

During the inspection it was noted that the isolation rooms and the sanitation facilities had been repaired. The call system in the isolation rooms had been rendered operative.

Paragraph 115 (page 62 of the response)

The lockers provided for patients in the Hospital have been fitted with locks, as recommended by the CPT.

Paragraph 123 (pages 67 to 70 of the response)

The Head of Prison Medical Services carried out an inspection of the Prison Mental Hospital in August 1993. She has also been involved in the result management of the Hospital.

One of the goals for the Hospital to be achieved in 1994 is to find ways of cooperating with the Psychiatric Clinic at Turku University in maintaining a good quality of medical care and to examine the possibility of official cooperation.

**Other issues of relevance to the CPT's mandate****i. discipline****Paragraph 128 (page 67 of the response)**

The cells at the women's ward of Hämeenlinna Central Prison used to enforce disciplinary punishments and to house prisoners at their own request for short periods will be enlarged and furnished in accordance with the CPT's recommendation as part of the repairs to be made during 1994.

**Paragraph 129 (pages 67 to 70 of the response)**

On 23 November 1993 a working group was set up by the Ministry of Justice to examine the right of persons sentenced to imprisonment or to perform community service to appeal a decision made by law-enforcement officials. The setting up of this working group is part of a project for the development of the central administrative structures of prison administration. This project also addresses the division of responsibilities between the central administration and the various prisons.

The working group is to examine which decisions should be entitled to appellate review and to make proposals concerning the stages of appeal and the effects of appeal on the enforcement of the decisions. Another task is to propose immediate changes to be introduced within the framework of the above development project and to consider which questions can be addressed in the context of an overall legal reform of the sanction system which may be undertaken at a future date.

The working group is to submit its report on 31 May 1994.

As is obvious from the above, the working group's brief covers a larger scope of questions than the issue addressed by the CPT: the examination of the right of appeal against all decisions regarding the isolation of prisoners. Since the time allowed the working group is relatively short and since it forms part of a larger development project a closer analysis of the need and the scope of the appeal system can be performed only on completion of the working group's work.

ii. problems related to the placement of prisoners

Paragraphs 139 and 140 (pages 77 to 79 of the response)

Currently, the renovation of Oulu Local Prison is underway. It entails the building of two new "travelling cells" for one person in addition to the two existing "travelling cells" accommodating one person. At Helsinki Central Prison, plans are being drawn up for the renovation of day cells east. The "travelling cells" in this part of the prison will be moved to another ward with single cells only.

As was stated in the Government's response, "travelling cells" are used for short-term, temporary accommodation for prisoners who are in transit from one prison to another, or have to appear in court, or in similar cases. For reasons of security and order it is not always appropriate to place these prisoners in ordinary cell units.

In Finland, the transport of prisoners utilizes a tailored transport network which covers practically the entire country and operates according to certain timetables. In so far as the Prison Administration is responsible for the transport of prisoners, this is carried out by using

special wagons and buses and is therefore dependent on the timetables of, for example, the Finnish Railways. Large groups of prisoners may be transferred at once and may, depending on the timetable, arrive at a local prison serving as a place of transit, after the prison has closed for the night. In these cases it is not possible to place the prisoners elsewhere in the prison but in the "travelling cells" reserved for this purpose. Neither is there enough space to keep single cells for all prisoners for these short-term stays which may only last a couple of hours.

There are no specific criteria as to which transit prisoners are placed in single cells. If necessary, the possibility of staying in a single cell is provided also in prisons without single transit cells.

It might be added that a new local prison planned to serve the Helsinki metropolitan area is envisaged to have a special unit for transit prisoners and prisoners whose stay in that prison is of short duration. Although not all the cells will be single cells, for the reasons cited above, this type of unit will be better capable of taking into account the needs of individual prisoners regarding placement. At the same time a regime suited for short-term stays can be adopted.

An instruction issued by the Prison Administration Department on 22 January 1993 on the placement of prisoners in penal institutions is appended. The instruction is based on a decision of 20 January 1993 of the Ministry of Justice.

iii. Paragraph 142 (pages 72 to 74 of the response)

A booklet in English produced for foreign prisoners is appended. The booklet will be translated into a number of other languages, including Swedish, German, French, Estonian and Russian.

In order to guarantee the availability of interpreting services, foreigners serving prison sentences in Finland will, as today, be placed in certain prisons. Written information produced by these prisons will, as far as possible, be translated into the above-mentioned languages.

Paragraph 146 (pages 80 to 83 of the response)

The Ministry of Justice decision on the carrying of firearms in prisons is being revised. New instructions are to be submitted to the Minister of Justice in time to make them applicable as of 1 June 1994.

According to the revised instructions firearms may be carried inside a penal institution for special reasons only. The director of each prison will be responsible for giving more detailed instructions. Throughout the prison administration, a system will be introduced where the carrying of firearms is connected with specific tasks or places of work; this will considerably reduce the number of firearms in use.

A P P E N D I X

EUROPEAN COMMITTEE FOR THE PREVENTION OF TORTURE  
AND INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

Strasbourg, 6 December 1993

*The President*

Dear Mr Taimisto,

**Subject:** Preliminary observations on the response (interim report) of the Finnish authorities to the report drawn up by the European Committee for the prevention of torture and inhuman or degrading treatment or punishment (CPT) following its visit to Finland in May 1992

1. At the outset, the CPT wishes to express its sincere appreciation of the very detailed and comprehensive interim report provided by the Finnish authorities and of their decision to have published both the CPT's report and their interim report. Cooperation between the Finnish authorities and the Committee has to date been excellent.

2. The CPT wishes to await the Finnish authorities' follow-up report, due in February 1994, before assessing in detail the measures taken in response to the CPT's report. However, the Committee would like at this stage to make some preliminary observations in reaction to the interim report, which it trusts the Finnish authorities will take into account when preparing their follow-up report. Naturally, the CPT also hopes that the follow-up report will on other matters supplement as appropriate the information provided in the interim report.

Police establishments

Torture and other forms of ill-treatment

Response to paragraph 13 (cf. pages 7 and 8 and Appendix 2 of the response)

3. The CPT was pleased to receive the statistics on the numbers of complaints of ill-treatment by police officers made in Finland during 1991 and 1992. It has noted that no disciplinary action was taken against police officers following such complaints in either year, but that, respectively, 39 and 42 cases were referred to the public prosecutor for charges. The Committee would be pleased to receive information on the results of those cases which were so referred.

Mr Hannu Taimisto  
Senior Ministerial Secretary  
General Department  
Ministry of Justice  
Eteläesplanadi 10  
Helsinki  
FINLAND

Postal Address:  
CONSEIL DE L'EUROPE  
67075 Strasbourg Cedex  
FRANCE

Telephone:  
88 41 20 00

Telex:  
EUR 870 943 F

Fax  
88 41 27 72

4. Further, the CPT has noted that the number of prosecutions under Chapter 26 of the Penal Code (false and unsubstantiated denunciations) has been low. It would like to receive statistics on the frequency of such prosecutions in 1992 and 1993.

#### **Remand detention in police establishments**

Response to paragraphs 11, 25 and 53 of the CPT's report (cf. pages 2 to 6, 11 and 27, and Appendix 1 of the response)

5. The CPT is grateful for the detailed explanation of the practical operation of section 1 of the Remand Imprisonment Act set out in the response and for the copy of the 1985 Instructions for the Treatment of Detainees, which appears at Appendix 1. It has noted that, in principle, "remand prisoners are held in police premises only in exceptional cases". It is clear from the examples given on page 3 of the response that such a decision might be taken, not only to avoid the risk of obstruction of the investigation (e.g. collusion), but also in many other situations where the police find it more convenient, for practical reasons, that persons remain on police premises.

6. The Committee is conscious of the advantages to the police and the prosecution authorities which accrue from holding persons under pre-trial investigation in police premises; however, a balance must be struck between facilitating the work of such authorities and the rights of detained persons.

Prolonged periods of detention in police premises can lead to high risk situations. As already stated in the CPT's report, it would be preferable from the standpoint of the prevention of ill-treatment, for all persons on remand to be held in premises managed and staffed by the prison authorities.

7. Further, remand prisoners are, in general, entitled to expect conditions of detention (and, in particular, regime activities) which, as the Finnish authorities themselves recognise, cannot be provided in a police establishment. Of course, in cases where it is feared that there is a risk of collusion, a remand prisoner could be held under a restricted regime for a certain period; however, even in respect of such prisoners, it is preferable from the standpoint of the prevention of ill-treatment, that they be held on prison rather than police premises.

8. The CPT's concerns in this area are all the greater given that, as confirmed by the response, the transfer to a prison of a person on remand in police premises usually takes place on the initiative of the police. Under such circumstances, it is clear that the possibility of a transfer to a local remand prison could be used by police as a means of exerting pressure on suspects to provide information.

The CPT would like the Finnish authorities to provide further reflections on this subject in their follow-up report, taking into account the above remarks.

## Conditions of detention in police establishments

Response to paragraph 20 of the CPT's report (cf. pages 9 to 11 and Appendices 1 and 4 of the response)

9. The Committee is grateful for the information provided in the response and, in particular, to learn that "measures have already been taken by modifying the practical arrangements for custody" to reduce the occupancy levels in the Töölö Centre. It trusts that the follow-up report will contain further details of the measures involved.

## Safeguards against the ill-treatment of persons detained by the police

### i. notification of custody

Response to paragraphs 28 and 30 (cf. pages 13 to 17 of the response)

10. The Committee is pleased to learn that the Ministry of the Interior has issued instructions to the effect that the legal provisions on the notification of the custody of persons under arrest also apply, where appropriate, to those who have been apprehended. It would like to receive a copy of those instructions.

11. The CPT also welcomes the willingness of the Ministries of Justice and the Interior to amend the provisions of Chapter 1, Section 7(2) of the Coercive Criminal Investigation Means Act 1987, in order to introduce a presumption in favour of notification. The Committee considers that such an amendment would meet its recommendation, provided that the exceptions are clearly defined.

The Finnish authorities also make reference to section 22(1)(10) of the Decree on Pre-Trial Investigation and Coercive Means. In this respect, the CPT considers most useful the suggestion made in the response that instructions might be issued, defining the authority competent to delay notification. In the view of the CPT, that authority should be a senior police officer or public prosecutor.

### ii. access to a lawyer

Response to paragraphs 32 and 33 (cf. pages 17-18, 23-24 and Appendix 5 of the response)

12. In its report the CPT recommended that in cases where, in order to protect the interests of justice, access to a detainee's own lawyer is subject to restrictions (e.g. monitoring of conversations), unrestricted access to another independent lawyer, who can be trusted not to jeopardise the legitimate interests of the police investigations, should be arranged. The Finnish authorities replied that this would have "little practical value" because "if a person in custody has been ill-treated" he has the possibility of confidential access in writing to the Parliamentary Ombudsman.

./.



13. Without underestimating the importance of the right of access to the Ombudsman, in the view of the CPT, the preventive impact of such an ex post facto procedure is considerably less than that of unrestricted access to a lawyer during police custody itself.

The CPT regards the right of unrestricted access to a lawyer as an essential safeguard against ill-treatment and was pleased to learn from the response that it is already an "established practice" in Finland to allow detainees who have been denied the right to consult in private with their own lawyer to consult a member of the Finnish Bar Association. The CPT considers that this established practice should be the subject of express legal provisions.

14. As regards the operation in practice of the right to prohibit the presence of a lawyer during interrogations, the Committee has noted that this possibility is practically never used, with the striking exception of Turku and Pori. The Committee would be grateful to learn if there is an explanation for this phenomenon.

iii. medical examination of detained persons

Response to paragraph 35 (cf. page 24 of the response)

15. The Committee notes that there is no provision in law on the right of a person in police custody to have access to a doctor of his choice, although it was clear from observations made during the visit, and confirmed in the response that, in practice, such a possibility does exist.

The CPT considers that this right should be expressly guaranteed.

Response to paragraph 36 (cf. page 19 of the response)

16. The Committee has noted that, in principle, medical examinations of detained persons are undertaken out of the hearing, but, for security reasons, in the sight of police officers. The CPT considers that, in order to safeguard medical confidentiality, it would be preferable for such examinations to take place out of the sight of police officers, unless the doctor concerned requests otherwise.

The CPT was pleased to learn that the police have no objection to the results of a medical examination being made available to a detainee's lawyer. It wishes only to add that such results should, of course, also be made available to the detainee. This may be particularly important in cases where a detained person is not assisted by a lawyer.

Response to paragraph 39 (cf. pages 19 and 20 and Appendix 6 of the response)

17. The CPT is pleased to note from the information provided that the presence of a nurse at the Töölö Centre is guaranteed on an ongoing basis. The Committee would be pleased to receive further details of the "continuous training from the employer and the City of Helsinki" which is provided to staff dealing with intoxicated persons at the Töölö Centre.

Response to paragraph 40 (cf. pages 22 and 23 of the response)

18. The Committee is concerned by the reply of the Finnish authorities, to the effect that it is necessary to record on a cell door that a detainee is HIV+ or has AIDS, in order to avoid placing members of staff or other detainees at risk. In many cases, the fact that a detainee is HIV+ may not be known even to the person concerned. It follows that the only safe procedure to adopt is to treat every person who passes through police premises as potentially HIV+ and to take additional precautions in appropriate cases, in particular where blood spillage is involved. Labelling the cells doors of those officially known to be HIV+, or suffering from AIDS is, at best, only a partial response to the risks involved; it could lead the police to be less careful than they should be in other cases, and is unnecessarily stigmatising.

The CPT would like to receive further remarks from the Finnish authorities on this subject.

iv. information on rights

Response to paragraph 43 (cf. pages 20 and 21 of the response)

19. The amendment of the form which detainees are asked to sign at the outset of their custody, as proposed in the response, could be an appropriate way in which to provide a detainee with information on his rights and the police with a signed statement that he has been informed of those rights. The CPT wishes to re-emphasise that the rights concerned should include all of those to which reference is made in its report, and that such information should be provided systematically in a language which the detainee understands.

v. conduct of police interviews

Response to paragraph 45 (cf. page 21 of the response)

20. The Committee has noted that the Finnish authorities are not in favour of the CPT's recommendation that a code of conduct for police interviews be introduced. In this respect, it is stated that the regulations in law are quite explicit and detailed. The CPT would like to receive a copy of those regulations. It is also stated that police officers receive training in interrogation, including at the Police Academy. In this connection it should be emphasised that one of the great advantages of a code of conduct is precisely to underpin the lessons taught during police training.

The CPT would also be grateful to receive a copy of any "leaflet for clients" on this subject which may have been produced by the Finnish authorities.

Response to paragraph 47 (cf. pages 25 and 26 of the response)

21. The provision in Section 30 of the Pre-Trial Investigation Act whereby a detained person can request the presence of a credible and competent witness during interrogation by the police is potentially a useful safeguard against ill-treatment. However, the Committee believes that the advantages which could flow from this provision are fundamentally undermined by the practice of using police officers as witnesses in interrogations. Even though such officers may well be credible and competent, they cannot reasonably be said to be demonstrably impartial.

Response to paragraph 48 (cf. pages 21 and 22 of the response)

22. As regards the tape-recording of police interrogations, the Committee wishes to stress that such a development can provide an important additional safeguard for detained persons, as well as facilitating the work of the police. Research in countries which have introduced such a system has shown that any loss of spontaneity during questioning which may occur when the system is first introduced is of short duration.

23. Further, the Committee noted with interest that, "a major part of the police interrogations are held elsewhere than police stations". The CPT would like to receive further details about the proportion of interrogations and the places concerned.

Response to paragraph 51 (cf. pages 26 and 27 of the response)

24. The Committee was interested to learn that the Finnish police are "not in any way opposed" to creating an independent investigatory body to examine complaints against the police. The CPT considers that the existence of such an independent mechanism is an essential safeguard against the ill-treatment of those deprived of their liberty. The creation of such a body in Finland would be a most welcome development. It is hoped that the follow-up report will contain further information on progress towards this goal.

./.

## Prisons

### **Torture and other forms of ill-treatment**

#### Response to paragraph 59 (cf. pages 30 and 31 of the response)

25. The CPT has noted that, although the Prison Department does not compile statistics on the number of complaints of ill-treatment by prison officers, prisoners may make such complaints, inter alia, within the Prison Department and to the Ombudsman. It would appear from the response that a small number of such complaints were made in 1991 and 1992. Nonetheless, the Committee considers that, in the context of the prevention of ill-treatment, it would be useful if the Prison Department were to begin to compile statistics on the numbers of complaints of ill-treatment received and on the results in each case.

#### Response to paragraphs 65 and 66 (cf. pages 28-30 and 31-33 of the response)

26. The CPT welcomes the measures proposed by the Finnish authorities to counter the problem of inter-prisoner violence in Helsinki Central Prison, and to implement the recommendations on drug prevention made by the Ministry of Justice Working Group.

### **Solitary confinement**

#### Response to paragraph 76 (cf. pages 36 to 38 of the response)

27. In its report, the CPT made reference to section 27 of the Decree on Prison Administration, which obliged prison doctors to supervise the health of those placed in isolation. It understands from the response of the Finnish authorities that "due to an administrative reform, that provision is no longer in force legally", although it remains part of the Prison Administration Department instructions on the subject .

This development is a cause of concern to the CPT, in view both of its finding that doctors rarely visited isolation units and of its recommendation on monitoring the mental and physical state of prisoners placed in solitary confinement.

28. The CPT also has reservations about the current practice whereby "the monitoring of the health of prisoners in solitary confinement in most prisons is through prison officers reporting to the nurse". Indeed, elsewhere in its visit report (cf. paragraphs 106 to 110), the Committee referred to a recent case of suicide in Helsinki Central Prison, in respect of which the Prison Administration Department had itself concluded that such a practice had amounted to insufficient medical supervision of the state of health of the deceased.

The Committee would like to receive further comments from the Finnish authorities on the adequacy of the current system of monitoring the health of prisoners held in solitary confinement, in the light of these remarks. It would also like to receive a copy of the Act on the Patients' Rights and Status and of the additional instructions on monitoring the health of prisoners, to which reference is made in the response. ./.

Response to paragraph 78 (cf. pages 38-39 and 41-42 of the response)

29. In addition to the information set out in the response, the CPT would like to receive information about the total length of time for which each of the 11 prisoners currently classified as dangerous recidivists have been subject to a solitary confinement type regime.

**Conditions of detention in general**

Response to paragraph 89 (cf. page 44 of the response)

30. The CPT is very pleased by the commitment given to release prisoners at Hämeenlinna Central Prison during the day in order to use a toilet facility. However, it would also reiterate that a high priority should be given to the plans to give prisoners ready access to toilet facilities at all times, including at night.

**Other issues of relevance to the CPT's mandate**

- i. discipline

Response to paragraph 128 (cf. page 67 of the response)

31. The inclusion of the enlargement and renovation of the disciplinary cells for women at Hämeenlinna Central Prison in that prison's construction programme is a welcome development. The CPT would like to be informed of the timescale within which it is anticipated that those improvements will be completed.

Response to paragraph 129 (cf. pages 67 to 70 of the response)

32. The CPT has noted with interest that the Ministry of Justice is considering the extension of the right of appeal to all disciplinary sanctions, as part of a possible reform of the Enforcement of Sentences Decree. The Committee looks forward to receiving further information on this subject and believes that such a review should include consideration of extending a right to appeal to all decisions to place prisoners in non-voluntary solitary confinement.

./.

- ii. problems in relation to the placement of prisoners

Response to paragraphs 139 and 140 (cf. pages 77 to 79 of the response)

33. The CPT welcomes the plans to introduce single rooms as travelling cells and would like to receive further details of the number of cells involved and the criteria under which persons will be placed there.

34. The Committee would also like to receive a copy of the new instructions on the placement of prisoners issued on 20 January 1993.

- iii. treatment of foreign prisoners

Response to paragraph 142 (cf. pages 72 and 74 of the response)

35. The CPT considers that the production of a leaflet for foreign prisoners on the most important aspects of serving a prison sentence is commendable and would be pleased to receive copies of that leaflet. The Committee would add that the internal rules of establishments holding foreign inmates should also be made available in an appropriate range of languages.

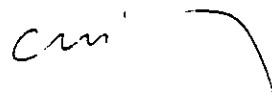
\*

\*

\*

36. Finally, the Committee would like to express its appreciation for the positive response by the Finnish authorities to certain of its other recommendations and comments. In particular, it wishes to commend the action taken to improve material conditions and regime activities in the isolation unit at Helsinki Central Prison, and the measures proposed in the context of suicide prevention. The importance accorded by the Finnish authorities to the implementation of those recommendations is fully in accordance with the spirit of Article 3 of the Convention.

Yours sincerely,



Claude NICOLAY

Copy of this letter sent to the Permanent Representative of Finland to the Council of Europe.